



FH
MPA- 173919

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MPA - 173919

PRELIMINARY RECITALS

On April 25, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Division of Health Care Access and Accountability regarding Medical Assistance. The hearing was held on June 14, 2016, by telephone, from Madison, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for occupational therapy.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED], OTR (written appearance only)
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of La Crosse County.

2. On January 25, 2016, the petitioner, with Dr. [REDACTED], requested 12 weekly one-hour sessions of occupational therapy. The request was returned to the provider on February 8, 2016, for further information, and the PA request was resubmitted on March 7, 2016. The Office of the Inspector General denied the request on March 15, 2016.
3. The petitioner is a 4-year-old boy diagnosed with autism spectrum disorder.
4. Petitioner's PA request was submitted accompanied by his Individual Education Program (IEP) developed by the [REDACTED] School District.
5. The PA request was denied because the PA request did not document the medical necessity of the requested OT.

DISCUSSION

Medical assistance covers occupational therapy if the recipient obtains prior authorization after the first 35 visits. Wis. Admin. Code, § DHS 107.17(2)(b). When determining whether a service is necessary, the Division must review, among other things, whether the service is medical necessary, the appropriateness of the service, the cost of the service, and the effective and appropriate use of available services. Wis. Admin. Code, § DHS 107.02(3)(e). "Medically necessary" means a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
 1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
 2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
 3. Is appropriate with regard to generally accepted standards of medical practice;
 4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
 5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
 6. Is not duplicative with respect to other services being provided to the recipient;
 7. Is not solely for the convenience of the recipient, the recipient's family or a provider;
 8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
 9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Admin. Code, § DHS 101.03(96m)

The petitioner's primary diagnosis is autism spectrum disorder. Besides the requested private therapy, he receives therapy through his school district during the school year. Both therapies seek to treat some of the common symptoms of autism such as not reading social and verbal cues, having proper interaction with his peers, and exercising discipline. To prevent requested private services from duplicating those a child receives through his school district, the department requires that the two providers coordinate their services:

A member who receives SBS [school-based services] may also receives (sic) PT, OT, and SLP services that are not a part of the SBS. PT, OT, and SLP providers are required to coordinate evaluations and services with SBS providers. PT, OT, and SLP providers, along with SBS providers, are required to communicate with each (sic) other at least once a year. SBS providers are required to cooperate with PT, OT, and SLP providers who request copies of the child's IEP or components of the IEP team evaluation.

Online Provider Handbook, Topic 2784 (Coordination with School Based Services Providers)
<https://www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/Display/tabid/152/Default.aspx?ia=1&p=1&sa=87&s=1&c=4>

Coordination involves more than calling the other provider and letting her know that you are also providing services. It requires conferring with the other provider, exchanging ideas, and determining what services each will provide so that the services do not duplicate each other, which would waste the public resources used to fund those services. In this case, the record fails to document communication between Dr. Hanson and the school therapist.

It also appears that at least a portion of the requested services do not have proven medical value or usefulness. The medical documentation indicated that sensory techniques would be used to treat the petitioner. Medical assistance covers sensory integration as part of occupational therapy, but Wis. Admin. Code, § 107.02(2)(b) allows the department to bar payment for “medically unnecessary” and “inappropriate” services. Using this authority, it held in *Final Decision No. MPA-65/111878* that it cannot cover sensory techniques to treat those with autism. The Department’s final decisions are binding on administrative law judges, meaning that the judges must follow those decisions.

The petitioner must prove by the preponderance of the credible record that the requested therapy is medically necessary. *Medically necessary* as it pertains here is a legal term whose definition was provided earlier in this decision. Petitioner has not met that burden. Therefore, I must uphold the Office of Inspector General’s decision to deny the requested therapy.

CONCLUSIONS OF LAW

The Office of Inspector General correctly denied the petitioner’s request for occupational therapy because he has not proven by the preponderance of the credible evidence that the request therapy is medically necessary.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN

INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

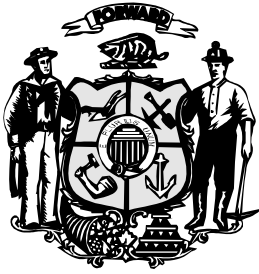
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 18th day of July, 2016

\s_____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 18, 2016.

Division of Health Care Access and Accountability